

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

MARK SHAFFER, )  
                        )  
Plaintiff(s),       )  
                        )  
vs.                   )                      Case No. 4:04CV00553 ERW (AGF)  
                        )  
MARY RIORDEN,       )  
                        )  
Defendant(s).       )

**MEMORANDUM AND ORDER**

This matter is before the Court upon the Report and Recommendation of United States Magistrate Audrey G. Fleissig [doc. #13] pursuant to 28 U.S.C. § 636(b). The Court notes that no objections were filed to the Report and Recommendation.<sup>1</sup> After consideration of the issues, the Court hereby sustains, adopts, and incorporates herein the Magistrate's Report and Recommendation. In addition, in order to issue a certificate of appealability "the applicant must make a substantial showing of the denial of a constitutional right," which the petitioner has not done in this case. *See Slack v. McDaniel*, 529 U.S. 473, 483 (2000); *see also Langley v. Norris*, 465 F.3d 861, 863 (8th Cir. 2006). Furthermore, the Court does not believe that reasonable jurists might find the Court's decision debatable or wrong, for purposes of issuing a certificate of appealability under 28 U.S.C. § 2253(c)(1)(A). *Slack*, 529 U.S. at 483-84. Therefore, the Court shall not issue a certificate of appealability as to any claim raised in the Petition.

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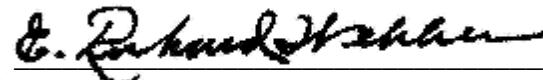
<sup>1</sup>The Petitioner in this case failed to notify the Court of a change in address. Therefore the original copy of the Magistrate Judge's Report and Recommendation was returned to the Court. A second copy was sent to the correct address on February 2, 2007. Objections to the Magistrate Judge's Report and Recommendation were due on January 30, 2007, however, due to the Petitioner's failure to notify the Court of his change in address, the Court waited an additional ten days for any objections the Petitioner may have had, none were filed.

Accordingly,

**IT IS HEREBY ORDERED** that Petitioner Mark Shaffer's Petition for Writ of Habeas Corpus [doc. #1] is **DENIED**.

**IT IS FURTHER ORDERED** that a Certificate of Appealability is **DENIED**.

Dated this 15th Day of February, 2007.



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E. RICHARD WEBBER  
UNITED STATES DISTRICT JUDGE